to ensure that goals of universal service and the removal of barriers to competitive entry are fulfilled.

The ongoing need for oversight highlights the need for flexibility and collaboration between the federal and state officials. The Telecommunications Act of 1996 (the Act) charged state and federal regulators with the responsibility to facilitate and oversee the development of competition in all communications markets as well as the preservation and advancement of universal service. Section 254 of the Act specifically addresses universal service and the need for the states and the FCC to work in concert to develop universal service policy recommendations on revisions to the high cost assistance program as well as the establishment of new mechanisms such as the discount program for K-12 schools and libraries. As implementation of these programs proceeds, we, both state and federal regulators, must be nimble and flexible to be able to make the changes to accommodate a rapidly changing marketplace and technological innovation.

As a new program, the mechanism to provide libraries and K-12 schools assistance with technology deployment through discounts on telecommunications

purchases will certainly necessitate careful oversight and periodic adjustments. We believe that Congress and the Administration shared a vision that technology literacy will be critical for the emerging workforce and that steps need to be taken to avoid the creation of a society of "information haves and have-nots." Consistent with the requirements of Section 254(h), the Recommended Decision endorses a program to enable eligible schools and libraries receive discounts on purchases of telecommunications services and access to the Internet. To reach the twin goals of widespread technology deployment and closing the gap between information haves and have-nots, the discounts are scaled to account for both the relative wealth of an eligible entity as well as the objective cost of serving the area in which it is located.

The discounts available to the eligible schools and libraries range from 20%, for the top 3% of the schools according to a measure of wealth, to 90% for the 16% of schools which are the most economically disadvantaged. The Recommended Decision requests comments, particularly from the education community and state budget authorities, on how to best assess the relative wealth of a school. We strongly agree with the requirements that schools and libraries undertake a

competitive bidding process to establish the pre-discount price of a service for two reasons. First, we want the emerging competitive markets to put downward pressure on the cost of the program. Secondly, the requirement to develop and disseminate a competitive bid proposal will help to remind the carriers, both incumbents and new entrants, that the schools and libraries are valuable consumers.

A critical element to the success of the mechanism is the need for the schools and libraries to have maximum flexibility in tailoring technology deployment plans to the needs of their constituents. By allowing the discounts to be applied to all telecommunications services as well as Internet Access, we hope to allow schools to design the most appropriate system for their needs.

Recognizing that the discount program for schools and libraries constitutes a new element of universal service, we have recommended a fiscally prudent course of capping the initial expenditures on an aggregate basis and for a carryover of unspent allocations to the following year. Accounting for the variations in implementation schedules as well as the desire to promote the most efficient

planning in technology deployment, we refrained from instituting a per entity allotment. However, a safety valve is recommended to ensure that if the expenditures within a year are exceeding expectations, priority is given to the most economically disadvantaged schools. We recognize that the effectiveness of the program in targeting assistance will need to be closely monitored.

We concur with the Recommended Decision to fund the schools and library discount program through an assessment on interstate and intrastate revenues. The goal of this program is to explicitly fund the education of the next generation. We believe that Congress and the Administration agreed that this is a social policy that is in the interest of the Nation, both economically and socially. States have uniformly supported this broad social policy of providing access to technology for the benefit of residents and schoolchildren. For example, the Seattle Public Library has established a technology site at a satellite location in one of the most economically disadvantaged regions in the city. We have received reports that there are kids lining up to use the computers connected to the Internet on a daily basis, and kids have now taken on responsibilities to teach their counterparts through a Microsoft certification process. In another library, the benefits have actually extended beyond

an increase in technology literacy. Waiting in line for access to the computers has pushed the kids to browse through the bookshelves, and the circulation among youngsters has increased noticeably. Similarly, the Florida legislature has made a commitment to education and technology through a number of programs, including public school retrofit programs and the Florida Distance Learning Network. These programs, which include partnerships between Florida's education and business communities will complement the federal program and help bring technology to all our children and citizens.

While predicated on the current assistance program for high cost areas, the recommended high cost assistance mechanism constitutes a fundamental shift from the previous paradigm. The recommendation to adopt proxy models, pending sufficient improvement to address outstanding concerns about accuracy, is an endorsement of the need to identify the costs of providing service to certain regions based on the most efficient network construction on a disaggregated basis. This is necessary to ensure that competitors and incumbent carriers may compete on equal footing based on objective costs. Proxy models also comport with the

Recommended Decision to include competitive neutrality as a principle in developing universal service policies.

The current cost estimates associated with implementing the proxy models range from $5 billion to $14 billion annually; and such figures represent a radical change from the current explicit high cost fund of approximately $750 million. However, it should be noted that the proxy model would ideally replace all current implicit and explicit subsidies. The actual size of the successor high cost assistance program will obviously depend on the underlying proxy model. Since the Joint Board has recommended that the joint staff continue to work collaboratively to refine the proxy models, it is impossible to assess the cost of the program at this time. We have deferred judgement on the revenue base to support the high cost assistance mechanism until the proxy model has been chosen a more reliable information on the size of the fund becomes available.

An additional question which must be addressed to fully answer the question of revenue base, is the extent to which the states and the FCC share the responsibility for ensuring the preservation and advancement of universal service.

This determination will have a significant impact on the size of the federal fund, and therefore, on the need to assess interstate and intrastate revenues of providers of interstate telecommunications services. As the technology converges and carriers begin to enter each others' markets, it is unclear that the traditional distinctions between interstate and intrastate carriers will retain their current meaning. We strongly urge our colleagues throughout the states to participate in the workshops that will be held by the joint staffs to develop the appropriate proxy models. We also urge that you contact the members of the Joint Board with your sentiments on this and other issues directly. The balance between federal and state responsibilities turns on what best accomplishes the overall goals of universal service - ensuring that all Americans have quality services at just, reasonable, and affordable rates. As we all know, ratepayers are the ultimate supporters of any program, thus their respective representatives must be integrally involved in determinations that will affect them.

While the Recommended Decision constitutes our best assessment of what universal service policies should be implemented, flexibility must remain a tenet of further considerations. In some areas, such as the selection of proxy models and

the metric to determine the wealth of school or library, we have acknowledged that the data on these issues is lacking and therefore have requested further input or recommended additional proceedings to gather appropriate information. While we adhere the principles enunciated in the recommendation, those principles should be viewed as the side bars to allow for the appropriate modifications needed to achieve our shared policy goals.

In addition, we note that the FCC will soon embark on the third and fourth books of the "quartet" – access charge reform and separations reform. Reforms flowing from those dockets will inevitably affect the size and scope of the universal service fund and must be addressed concurrently and coherently. We, as members of this board, look forward to working with our counterparts on the 80-286 joint board on separations reform and with our FCC colleagues on general access reform.

In closing, we would like to emphasize that the success of the collaborative efforts of state and federal officials on the important issue of universal service serves to reinforce the productive nature of this type of cooperation between the

FCC and the states. As the FCC moves ahead to address the other issues associated with implementing the Act and fostering competition, it is imperative that the states and the FCC work in concert. Both our joint and separate decisions as policymakers will affect our common interest - American consumers.

SEPARATE STATEMENT OF
COMMISSIONER KENNETH MCCLURE
CONCURRING IN PART AND DISSENTING IN PART

I must respectfully dissent from the portion of the Joint Board recommendation relating to the assessment of revenues for the universal service support mechanism. Two approaches have been recommended by the Joint Board on the assessment of interstate and intrastate funding. For the schools, libraries and rural health care components of the fund, the Board has recommended that contributions be based on both the interstate and intrastate revenues of the interstate. However, for the purpose of funding the high cost and low income components of the fund, the Board has taken a more conservative approach and requested that comments be filed by interested parties on the appropriateness of this matter. I believe that the Act is clear that regardless of the funding purpose, interstate funds should be used for funding the federal universal service program. The necessity of these two separate recommendations is not justified.

Section 254(d) states that "every telecommunications carrier that provides interstate telecommunications services" must contribute to preserve and advance universal service. Congress required that these contributions be made on an "equitable and nondiscriminatory basis" and mandated that contributions be provided by telecommunications carriers that provide interstate telecommunications services. When that requirement is read together with Section 254 (f), which contemplates state universal service programs, it is my opinion that Congress intended the specific reference to interstate carriers to mean that a distinction should be made for a separate federal support mechanism. Only interstate revenues should be utilized for funding the federal universal service program, allowing intrastate telecommunications revenues to be used for funding the complimentary state universal service programs.

In my opinion, Congress has made it clear that there is a distinction between the federal and state universal service programs and thus the same distinction should follow related to the contributions for those programs. Courts have required that regulatory agencies maintain jurisdictional distinctions when using carrier revenue to support the costs of a particular service. In *A T & T Communications of the Mountain States, Inc. v. Public Serv. Comm'n,* 625 F.Supp. 1204, (D. Wyo. 1985) the Wyoming PSC attempted to require A T & T to pay local exchange companies one percent of all

of its billings, for both interstate and intrastate calls, to cover the costs of local disconnect service. The Court found that the PSC had exceeded its jurisdiction by including interstate calls in the base for calculating contributions for the cost of local disconnect service. Clearly, the FCC has authority to base the support mechanism for a federal universal service program on interstate revenues. However, just as clearly, the authority to utilize intrastate telecommunications revenues as a base for contributions to state universal service programs lies solely with the individual state commissions.

Using both the interstate and intrastate revenues of carriers that provide interstate service creates an inequitable and discriminatory basis for the contribution. Telecommunications traffic carried by a carrier only authorized to provide intrastate telecommunications service will not be subject to contributions while similar traffic carried by an interstate telecommunications carrier will be subject to contributions for the federal universal service fund. The carriers will be providing exactly the same type of telecommunications service, with one subject to federal assessment while the other is not. This could even lead to an unfair competitive advantage. Arguably the end-user will be paying for these contributions through increased rates in order to make the

telecommunications carrier whole. If only some of the carriers are forced to contribute, those who are not will have an unfair competitive advantage.

This advantage cannot be alleviated by requiring those carriers which only provide intrastate telecommunications services to contribute to the federal universal service fund because clearly the statute does not permit that. Congress limited the authority of the Joint Board and the Commission to require contributions to federal universal service support mechanisms from those carriers which provide interstate telecommunications services. The only viable alternative that would allay this concern is to use only the interstate telecommunications revenues to fund the Commission's federal universal service programs.

I am further concerned that relying upon intrastate telecommunications revenues as a base for contributions to support federal universal service may adversely affect State programs and the low income, disabled and rural consumers that depend on them for access to the telecommunications network. Section 254 (f) anticipates state universal service programs which should compliment the federal program, not compete with it.

Further, Section 254 (f) provides that "Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and

nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State." Thus, it is certain that many, if not all, states will be adopting additional regulations which provide for contributions from those carriers of intrastate telecommunications services. This will undoubtedly result in some intrastate telecommunications services being assessed for contributions to a federal universal service fund while other intrastate telecommunications services are assessed for both federal and state universal service funds. This is clearly discriminatory on its face and should be avoided.

Respectfully submitted,

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November 7, 1996

SEPARATE STATEMENT OF

COMMISSIONER LASKA SCHOENFELDER

DISSENTING IN PART

I respectfully dissent from the Joint Board's recommendation today regarding the assessment on carriers' total interstate and intrastate telecommunications revenues, the delay in implementing the high cost fund and the treatment of the Subscriber Line Charge. While I do not dissent, I have reservations regarding the support for these mechanisms not being explicit on customers' bills, supporting internal connections for schools and libraries and the overall size of the Universal Service Fund.

First, regarding the fund assessment, I do not believe the Commission has authority to base contributions on intrastate telecommunications revenues. The jurisdiction between the Commission and the states is distinct. The Commission possesses authority to assess interstate revenues, while the state commissions have authority to utilize intrastate revenues. To recommend that the Commission utilize intrastate telecommunications revenues is certainly beyond the scope of its jurisdiction.

Second, Congress clearly intended the Telecommunications Act of 1996 to preserve state authority over universal service matters within the state. I am greatly concerned that utilizing intrastate revenues will negatively impact such well intended state programs. State commissions should not be hindered by this decision to develop their own workable and viable state programs. Therefore, intrastate revenues should not be assessed, as such revenues are designed for complementary state universal service programs, not the federal fund.

Third, the Act states that contributions to the federal universal service fund are to be made from those carriers that provide interstate telecommunications services. To recover intrastate revenues from these carriers is an act I do not believe Congress

intended. Furthermore, such recovery is clearly discriminatory insofar as it assesses intrastate contributions only from those carriers that provide both interstate and intrastate services. Carriers providing intrastate services, but not interstate services, cannot be required to contribute under the Act, yet it is inconsistent and discriminatory to mandate the same revenues be recovered from carriers merely because they provide interstate services.

I must also dissent from the portion of the decision which recommends high cost funding be delayed until the size of such fund is determined. While I agree with the decision to further review the proxy methodology, I find little merit in forestalling the implementation of funding. The Act is clear in its mandate for interstate funding and I disagree that determining the size of the fund is necessary in order to begin this process.

The issue regarding the Subscriber Line Charge is also one in which I must disagree. I have serious concerns that we are not addressing this important issue today and I believe the decision to postpone action on this topic is unfounded. The record is complete and supports that a recommendation be made. Furthermore, in delaying addressing this issue, we are not requesting additional comments for the record. In the competitive environment which we are trying to achieve, the recovery of cost should be determined by the marketplace, not by regulatory mandates.

In closing, I would also like to express my reservations about not providing explicit notification on customers' bills about the charges assessed to fund these programs. Consumers are entitled to be made aware of the charges that they are paying to support the recommendations made herein. Also, while I do not dissent to providing interconnection for schools and libraries, I have concerns that such action may not be consistent with a strict reading of the Act under Section 254(h)(2). The Act calls for support to "services", not for the funding of plant and equipment. Lastly, I find the overall projected size of the fund necessary to assist schools and libraries ($2.25 billion) may be excessive and harmful to end users. This amount, while certainly beneficial to schools and libraries, may adversely affect numerous customers, particularly those in low income categories. I believe that a federal universal service fund that taxes consumers billions of dollars a year is not only inconsistent with Congressional intent, but could be extremely harmful nationwide to consumers. By supporting services at

this level, average rates for all consumers may increase and it may harm competition which is the principal objective of the law.

November 7, 1996

SEPARATE STATEMENT

OF

MARTHA S. HOGERTY

PUBLIC COUNSEL FOR THE STATE OF MISSOURI

Re: Federal-State Joint Board on Universal Service Recommended Decision

CC Docket No. 96-45

By this Recommended Decision, the Joint Board has proposed a number of significant recommendations designed to promote universal service. These recommendations are intended to benefit consumers in all regions of the nation. The Joint Board was unwavering in its focus on developing equitable solutions to these difficult and complex issues.

Especially significant for consumers is the potential that the Subscriber Line Charge (SLC) paid by residential and small business customers will ultimately be reduced. A SLC reduction would allow these customers to share in the rate reductions which are produced by the Telecommunications Act of 1996. The magnitude of a SLC reduction could exceed $200 million in the aggregate. In the short-term, consumers are clear winners if such a SLC reduction is implemented. As competition develops, the sustainability of any SLC becomes less likely.

Consumer advocates have worked for many years in order to ensure just, reasonable, and ultimately, affordable telecommunications rates for all consumers. Maintaining affordability has been one of my principal goals in this proceeding. I believe the framework for ensuring affordable rates, described in our Recommended Decision, appropriately places the primary role for this determination on the states. The Recommended Decision also outlines the various factors, including subscribership rate and size of calling area, that state commissions must consider when addressing this issue.

Consumers also directly benefit from our recommendation that the Lifeline assistance program be expanded to every state and territory; that the base federal Lifeline contribution be increased from $3.50 to $5.25 per eligible customer; that carriers be prohibited from disconnecting local service of Lifeline eligible consumers for nonpayment of toll; that toll limitation services be available at no charge to low-income consumers; and that carriers be restricted from imposing service deposits on consumers electing toll blocking service. I believe that expanding the reach of the Lifeline assistance program is the right thing to do. The 1996 Act appropriately reaches out to all consumers -- including low income consumers -- when considering the scope of universal service. Lifeline assistance helps maintain telephone service for those customers least able to afford it.

We have all worked hard in order to construct an effective means of assuring access to telecommunications benefits for schools and libraries as Congress intended. I believe that we have achieved an appropriate range of benefits at a reasonable cost. We have also made an important determination to base a universal service program on forward looking costs rather than the costs of currently existing networks. Important work needs to be done to realize this goal in the months ahead.

I emphasize that the Recommended Decision is only a recommendation to the full Federal Communications Commission. The FCC will make the ultimate decision in this proceeding by May 8, 1997. I strongly encourage consumers to actively participate in the FCC's public process to ensure that the pro-consumer recommendations are adopted.

In closing, this is the first time a consumer advocate has served a formal role in a federal-state Joint Board process. Participation here, however, is only the first step in what I hope will be a cooperative and continuing federal-state-consumer partnership. I welcome the opportunity to continue my work with the Joint Board on the unresolved universal service issues.